



February 18, 2005

HOUSE BILL No. 1409

DIGEST OF HB 1409 (Updated January 26, 2005 4:03 pm - DI 103)

Citations Affected: IC 6-3.1; noncode.

Synopsis: EDGE credit. Provides that an applicant may not obtain an economic development for a growing economy (EDGE) tax credit to retain existing jobs in Indiana unless the average compensation paid to the applicant's employees exceeds the lesser of the average county wage or the average state wage. Removes requirement that an applicant provide evidence of a competing job site. Reduces the number of employees the applicant must employ from 200 to 75. Changes the minimum ratio of local incentives to EDGE credits from \$1.50 per \$3 of EDGE credits to \$1 per \$2 of EDGE credits. Requires the EDGE board to consider, in determining the amount of an EDGE credit, the average wage paid by the applicant (rather than the amount by which this average wage exceeds the average county wage).

Effective: July 1, 2005.

Yount, Borrer, Reske, Heim

January 13, 2005, read first time and referred to Committee on Commerce, Economic Development and Small Business.
January 27, 2005, amended, reported — Do Pass.
January 31, 2005, referred to Committee on Ways and Means pursuant to House Rule 127.
February 17, 2005, referral withdrawn.

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HB 1409—LS 6669/DI 103+



February 18, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1409

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3.1-13-15.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15.5. This section
3 applies to an application proposing to retain existing jobs in Indiana.
4 After receipt of an application, the board may enter into an agreement
5 with the applicant for a credit under this chapter if the board
6 determines that all the following conditions exist:

7 (1) The applicant's project will retain existing jobs performed by
8 the employees of the applicant in Indiana.

9 ~~(2) The applicant provides evidence that there is at least one (1)~~
10 ~~other competing site outside Indiana that is being considered for~~
11 ~~the project or for the relocation of jobs.~~

12 ~~(3) A disparity is identified, using the best available data, in the~~
13 ~~projected costs for the applicant's project in Indiana compared~~
14 ~~with the costs for the project in the competing site.~~

15 ~~(4)~~ (2) The applicant is engaged in research and development,
16 manufacturing, or business services (as defined in the Standard
17 Industrial Classification Manual of the United States Office of

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Management and Budget).

~~(5)~~ **(3)** The average compensation (including benefits) provided to the applicant's employees during the applicant's previous fiscal year exceeds the ~~average compensation paid during that same period to all employees in the county in which the applicant's business is located by at least five percent (5%);~~ **lesser of:**

(A) the average wage in the county where the project for which the credit under this chapter is granted will be located; or

(B) the average wage in the state; during the same period, as determined by the department of commerce.

~~(6)~~ **(4)** The applicant employs at least ~~two hundred (200)~~ **seventy-five (75)** employees in Indiana.

~~(7)~~ **(5)** The applicant has prepared a plan for the use of the credits under this chapter for:

(A) investment in facility improvements or equipment and machinery upgrades, repairs, or retrofits; or

(B) other direct business related investments, including but not limited to training.

~~(8)~~ **(6)** Receiving the tax credit is a major factor in the applicant's decision to go forward with the project, and not receiving the tax credit will increase the likelihood of the applicant reducing jobs in Indiana.

~~(9)~~ **(7)** Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.

~~(10)~~ **(8)** The applicant's business and project are economically sound and will benefit the people of Indiana by increasing or maintaining opportunities for employment and strengthening the economy of Indiana.

~~(11)~~ **(9)** The communities affected by the potential reduction in jobs or relocation of jobs to another site outside Indiana have committed at least one dollar ~~and fifty cents (\$1.50)~~ **(\$1)** of local incentives with respect to the retention of jobs for every ~~three two~~ **two** dollars ~~(\$3)~~ **(\$2)** in credits provided under this chapter. For purposes of this subdivision, local incentives include, but are not limited to, cash grants, tax abatements, infrastructure improvements, investment in facility rehabilitation, construction, and training investments.

~~(12)~~ **(10)** The credit is not prohibited by section 16 of this chapter.

SECTION 2. IC 6-3.1-13-17 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. In determining the credit amount that should be awarded to an applicant under section 15 of this chapter that proposes a project to create jobs in Indiana, the board shall take into consideration the following factors:

- (1) The economy of the county where the projected investment is to occur.
- (2) The potential impact on the economy of Indiana.
- (3) The incremental payroll attributable to the project.
- (4) The capital investment attributable to the project.
- (5) The ~~amount the~~ average wage paid by the applicant. ~~exceeds the average wage paid within the county in which the project will be located.~~
- (6) The costs to Indiana and the affected political subdivisions with respect to the project.
- (7) The financial assistance that is otherwise provided by Indiana and the affected political subdivisions.

As appropriate, the board shall consider the factors in this section to determine the credit amount awarded to an applicant for a project to retain existing jobs in Indiana under section 15.5 of this chapter. ~~In the case of an applicant under section 15.5 of this chapter, the board shall consider the magnitude of the cost differential between the projected costs for the applicant's project in the competing site outside Indiana and the projected costs for the applicant's project in Indiana.~~

SECTION 3. IC 6-3.1-13-19.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19.5. (a) In the case of a credit awarded for a project to retain existing jobs in Indiana, the board shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all of the following:

- (1) A detailed description of the business that is the subject of the agreement.
- (2) The duration of the tax credit and the first taxable year for which the credit may be claimed.
- (3) The credit amount that will be allowed for each taxable year.
- (4) A requirement that the applicant shall maintain operations at the project location for at least two (2) times the number of years as the term of the tax credit. An applicant is subject to an assessment under section 22 of this chapter for noncompliance with the requirement described in this subdivision.
- (5) A requirement that the applicant shall annually report the following to the board:
 - (A) The number of employees who are employed in Indiana by

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- 1 the applicant.
- 2 (B) The compensation (including benefits) paid to the
- 3 applicant's employees in Indiana.
- 4 (C) The amount of the:
- 5 (i) facility improvements;
- 6 (ii) equipment and machinery upgrades, repairs, or retrofits;
- 7 or
- 8 (iii) other direct business related investments, including
- 9 training.
- 10 (6) A requirement that the applicant shall provide written
- 11 notification to the director and the board not more than thirty (30)
- 12 days after the applicant makes or receives a proposal that would
- 13 transfer the applicant's state tax liability obligations to a successor
- 14 taxpayer.
- 15 ~~(7) A requirement that the chief executive officer of the company~~
- 16 ~~applying for a credit under this chapter must verify under penalty~~
- 17 ~~of perjury that the disparity between projected costs of the~~
- 18 ~~applicant's project in Indiana compared with the costs for the~~
- 19 ~~project in a competing site is real and actual.~~
- 20 ~~(8) (7) Any other performance conditions that the board~~
- 21 ~~determines are appropriate.~~
- 22 (b) An agreement between an applicant and the board must be
- 23 submitted to the budget committee for review and must be approved by
- 24 the budget agency before an applicant is awarded a credit under this
- 25 chapter for a project to retain existing jobs in Indiana.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Economic Development and Small Business, to which was referred House Bill 1409, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, strike lines 9 through 14.

Page 1, line 15, strike "(4)" and insert "(2)".

Page 2, line 2, strike "(5)" and insert "(3)".

Page 2, line 13, strike "(6)" and insert "(4)".

Page 2, line 15, strike "(7)" and insert "(5)".

Page 2, line 21, strike "(8)" and insert "(6)".

Page 2, line 25, strike "(9)" and insert "(7)".

Page 2, line 28, strike "(10)" and insert "(8)".

Page 2, line 32, strike "(11)" and insert "(9)".

Page 2, line 41, strike "(12)" and insert "(10)".

Page 3, line 19, strike "In the".

Page 3, strike lines 20 through 23.

Page 3, after line 23, begin a new paragraph and insert:

"SECTION 3. IC 6-3.1-13-19.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19.5. (a) In the case of a credit awarded for a project to retain existing jobs in Indiana, the board shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all of the following:

(1) A detailed description of the business that is the subject of the agreement.

(2) The duration of the tax credit and the first taxable year for which the credit may be claimed.

(3) The credit amount that will be allowed for each taxable year.

(4) A requirement that the applicant shall maintain operations at the project location for at least two (2) times the number of years as the term of the tax credit. An applicant is subject to an assessment under section 22 of this chapter for noncompliance with the requirement described in this subdivision.

(5) A requirement that the applicant shall annually report the following to the board:

(A) The number of employees who are employed in Indiana by the applicant.

(B) The compensation (including benefits) paid to the applicant's employees in Indiana.

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(C) The amount of the:

- (i) facility improvements;
- (ii) equipment and machinery upgrades, repairs, or retrofits;
- or
- (iii) other direct business related investments, including training.

(6) A requirement that the applicant shall provide written notification to the director and the board not more than thirty (30) days after the applicant makes or receives a proposal that would transfer the applicant's state tax liability obligations to a successor taxpayer.

~~(7) A requirement that the chief executive officer of the company applying for a credit under this chapter must verify under penalty of perjury that the disparity between projected costs of the applicant's project in Indiana compared with the costs for the project in a competing site is real and actual.~~

~~(8)~~ (7) Any other performance conditions that the board determines are appropriate.

(b) An agreement between an applicant and the board must be submitted to the budget committee for review and must be approved by the budget agency before an applicant is awarded a credit under this chapter for a project to retain existing jobs in Indiana."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1409 as introduced.)

BORROR, Chair

Committee Vote: yeas 10, nays 0.

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